

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RANIA ASSILY,) CASE NO.: 1:23-cv-00629
)
 Plaintiff,) JUDGE:
)
 -v-) **NOTICE OF REMOVAL**
)
 CUYAHOGA COMMUNITY COLLEGE)
 DISTRICT, *et al.*,)
)
 Defendants.

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendants, Cuyahoga Community College District, Dr. Alex Johnson, Dr. Kim Johnson, Benjamin Smith, Vincent Briley, Derrick Williams, and Megan Estes (collectively herein referred to as “Defendants”) file this Notice of Removal to this Court of an action pending against them in the Court of Common Pleas, Cuyahoga County, Ohio. In support of this Notice of Removal, Defendants state as follows:

1. On or about January 11, 2022, Plaintiff Raina Assily (“Plaintiff” or “Assily”) commenced an action against Defendants in the Cuyahoga County Court of Common Pleas titled *Rania Assily v. Cuyahoga Community College District, et al.*, Case No. CV-22-958137 (the “State Action”). True and accurate copies of the State Action Complaint and Summons are attached hereto as Exhibit A, pursuant to 28 U.S.C. § 1446(a).

2. On or about February 15, 2023, the Honorable Steven E. Gall granted Defendants’ Motion to Dismiss Plaintiff’s Complaint with respect to Count I and the contract claims asserted by Plaintiff in Count II, *i.e.*, Plaintiff’s claims for breach of contract against Defendants were dismissed.

3. In light of the Court’s dismissal of Plaintiff’s breach of contract claims in Count I and any claims sounding in contract in Count II, Plaintiff filed an Amended Complaint on February

24, 2023, asserting the same claims as alleged in Plaintiff's initial Complaint and included an additional and independent claim pursuant to 42 U.S.C. 1983 under the protection of the First Amendment to the U.S. Constitution. True and accurate copy of the State Action Amended Complaint is attached hereto as Exhibit B, pursuant to 28 U.S.C. § 1446(a).

4. Defendants sought an extension of time to respond to Plaintiff's Amended Complaint up to and including March 24, 2023, for Defendants to answer, move or otherwise plead in response to Plaintiff's Amended Complaint.

TIMELY REMOVAL

5. On February 24, 2023, Defendants were served with a copy of the Amended Complaint. *See* Court Docket, attached as Exhibit C.

5. This Notice of Removal is being filed within the extension of time granted for Defendants to answer, move or otherwise plead in response to Plaintiff's Amended Complaint, and therefore it is timely filed pursuant to 28 U.S.C. § 1446(b).

JURISDICTION

6. The State Action includes claims under federal law. Plaintiff alleges violations under 42 U.S.C. § 1983 (*see* Claim II of the Amended Complaint). Specifically, Plaintiff alleges Defendants violated her rights pursuant to the First Amendment to the U.S. Constitution, and, as applied to Defendant, Cuyahoga Community College, pursuant to the Fourteenth Amendment of the U.S. Constitution.

7. Accordingly, Defendants are entitled to remove this action to this Court under 28 U.S.C. § 1441 because this Court has original jurisdiction pursuant to 28 U.S.C. § 1331(a) as the claims asserted under 42 U.S.C. § 1983 in the Amended Complaint arise under the laws of the United States and the claims expressly raise a federal question(s).

8. This action is not a non-removable action as described in 28 U.S.C. § 1445.

VENUE

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and Northern District of Ohio Local Rule 3.8. A number of the individual defendants reside within this District and a substantial part of the events or omissions giving rise to the claims are alleged to have occurred within this District.

NOTICE

9. Nothing in this Notice of Removal should be construed as an admission or acknowledgement of liability, a waiver of any defenses, or that Plaintiff is entitled to any damages.

10. Concurrent with the filing of this Notice of Removal, written notice of the filing of the Notice of Removal is being sent to counsel for Plaintiff, as required by 28 U.S.C. § 1446(d).

11. Promptly after the filing of this Notice of Removal, Defendants will serve written notice of this removal on all parties and file a copy of this Notice of Removal with the Clerk of Court for the Court of Common Pleas for Cuyahoga County, Ohio, as required by 28 U.S.C. § 1446(d). A copy of the Notice of Filing Notice of Removal is attached as Exhibit D.

12. All identified Defendants who were properly served in this case consent to the removal of this action.

WHEREFORE, Defendants respectfully file this Notice of Removal, removing this case from the Court of Common Pleas, Cuyahoga County, Ohio, to the United States District Court for the Northern District of Ohio.

Respectfully Submitted,

/s/ Jazmyn J. Barrow _____

Jazmyn J. Barrow (0085580)

Brittany N. Brantley (0091109)

Ogletree, Deakins, Nash, Smoak & Stewart P.C.

127 Public Square

41 Key Tower

Cleveland, OH 44114

Telephone: (216) 41-6100

Facsimile: (216) 357-4733

jazmyn.barrow@ogletree.com

brittany.brantley@ogletree.com

*Counsel for Defendants Cuyahoga Community
College, Dr. Alex Johnson, Dr. Kim Johnson,
Benjamin Smith, Vincent Briley, Derrick Williams,
and Megan Estes*

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2023, a copy of the foregoing *Notice of Removal* was electronically filed with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. A copy of the foregoing was also sent via email to:

Joseph Bancsi
West Suburban Office Building, Suite 400
20800 Center Ridge Road
Rocky River, Ohio 44116
Joseph.bancsi@gmail.com
Attorney for Plaintiff

/s/ Jazmyn J. Barrow

Jazmyn J. Barrow (0085580)

Counsel for Defendants Cuyahoga Community College District, Dr. Alex Johnson, Dr. Kim Johnson, Benjamin Smith, Vincent Briley, Derrick Williams, and Megan Estes